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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO QC

PUBLIC HEARING

OPERATION VESTA

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY, 2 AUGUST 2011

AT 10.15 AM

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This transcript has been prepared in accordance with conventions used in the Supreme Court

THE COMMISSIONER: Mr Newlinds.

MR NEWLINDS: Commissioner, what we have, we have Mr Johnson who's from the ANZ Bank - - -

THE COMMISSIONER: Yes.

10 MR NEWLINDS: - - - then I propose to recall Rodric David, then at the conclusion of his evidence to recall Karl Kazal, then to call Jimmy Kazal and then to conclude with Charif Kazal. Now, I'm not sure if that will all be completed today but - - -

THE COMMISSIONER: Right.

MR NEWLINDS: - - - that's the current of batting.

THE COMMISSIONER: And, Mr Newlinds, before you do call anyone I think - well, I need to ask you whether you're tendering the video.

20 MR NEWLINDS: I am, yes, please.

THE COMMISSIONER: So the, the video of the events of Friday afternoon, that's the date on Friday was 29 July, is Exhibit 12.

#EXHIBIT 12 - SECURITY VIDEO FOOTAGE TAKEN IN ICAC FOYER ON 29 JULY 2011

30 THE COMMISSIONER: Thank you. So you're calling Mr Johnson.

MR NEWLINDS: I call Mr Johnson.

MS WILLIAMS: Commissioner, before Mr Johnson is called may I seek your leave to withdraw from today's hearing?

THE COMMISSIONER: Yes, certainly.

40 MS WILLIAMS: Ms Cawden, C-A-W-D-E-N of my instructing solicitor's office will remain with your leave, Commissioner.

THE COMMISSIONER: Yes.

MS WILLIAMS: Before I withdraw I should indicate that the Authority is working on its response to the Commission's proposed recommendations.

THE COMMISSIONER: And would we get by the end of - - -

MS WILLIAMS: That, this is the present anticipation.

THE COMMISSIONER: - - - today?

MS WILLIAMS: I don't presently see any difficulty with that and if that changes I will advise the court.

THE COMMISSIONER: Yes, thank you, Ms Williams.

10 MS WILLIAMS: Thank you, Commissioner.

MR KORN: The other matter, just administrative, Mr Commissioner, is, is Jimmy coming now ahead of Charif?

MR NEWLINDS: That's the plan.

MR KORN: All right. Jimmy Kazal, I was down working there last night when a subpoena arrived with two of the, of the staff, Jimmy had already gone home. I indicated I was prepared to attend to the matter. What I've
20 organised, Mr Commissioner, although this subpoena says 2 o'clock, I, I have organised for Jimmy to be at World Trading and sit there from 12 o'clock onwards. If it's thought that it needs to be earlier than that I just need to, Mr Martin Ricci's not here, I - - -

THE COMMISSIONER: Mr Newlinds is shaking his head.

MR KORN: No, all right. He's down there waiting from that time.

THE COMMISSIONER: But thank you for your assistance and
30 cooperation there, Mr Korn.

MR KORN: I've got the actual subpoena, he doesn't have it but I just brought it to court, he hasn't been served with it (not transcribable).

THE COMMISSIONER: Very well.

MS MIRZABEGIAN: Commissioner, my name is Mirzabegian. I seek leave to appear for Mr Johnson.

40 THE COMMISSIONER: Yes, I'm sorry, I didn't catch your name.

MS MIRZABEGIAN: I'll spell it for you, it's very long. M-I-R-Z-A-B-E-G-I-A-N.

THE COMMISSIONER: Yes, thank you, Ms Mirzabegian.

MS MIRZABEGIAN: Thank you, Commissioner.

MR KORN: Commissioner, I wonder, just one small, this trolley's right in the line of seeing, if that could be - thank you.

THE COMMISSIONER: Now, Ms Mirzabegian, do you wish me to make a section 38 order?

MS MIRZABEGIAN: If it suits, Commissioner. I'm actually not instructed to have that made but perhaps in the circumstances it would be appropriate.

10 THE COMMISSIONER: Yes, I will make it. I mean, it's probably not necessary.

MS MIRZABEGIAN: No, perhaps just to cross the T's.

THE COMMISSIONER: I can't imagine how it could become necessary.

MS MIRZABEGIAN: No, I can't imagine so either based on what we've been instructed.

20 THE COMMISSIONER: Mr Johnson, would you like to give your evidence under oath or do you wish to affirm the truth of your evidence?

MR JOHNSON: Affirm, please.

THE COMMISSIONER: I beg your pardon?

MR JOHNSON: Affirm, please.

THE COMMISSIONER: Mr Johnson.

MR NEWLINDS: Sir, what is your name?---Jason Johnson.

And do you hold a office at the Australia and New Zealand Banking Group?
---I do, I'm a branch manager.

10

Which branch are you the manager of?---37 Pitt Street branch.

37?---Yes.

And for how long have you held that position?---I've been in that position
for about five to six months.

All right. And for how long have you worked at that branch?---For that
time.

20

All right. Now, I want to show you a little bundle of documents if I can,
which have been produced by the bank and if we can have these up on the
screen please. Now, can I just ask you to flick through this little bundle of
documents, have you got one, sir? Just, just go through those documents, I
just want to ask you if you're familiar with that type of document as being a
type of record that the bank produces?---I'm familiar with part of the
document. It's not what I would deal with in my normal day to day work.
It's sort of a back office screen dump of information.

30

All right. Well unfortunately for you you're the person as being put forward
by the bank as answering these questions. If you don't feel you're the right
person, you might feel free to tell us the name of someone who you think is
more appropriate.

THE COMMISSIONER: I may say Mr Johnson has not been particularly
cooperative and I can assure you that we will summons every person in the
bank until we find out what we need.

40

MR NEWLINDS: Anyway, lets just see how we go. Can I tell you Mr
Johnson that the bank produced to the Commission in answer to a summons
these documents, the description of documents that were called for was as
follows, copies of the following ANZ Bank statements and credit card
statements in relation to Master Card account and there's a number of an
account in the name of Andrew J Kelly, transaction reports, deposit
vouchers, customer receipts and where deposited the cheques or cheque
details for the following credits to the account. And then there's a reference
to two deposits, one on 18 June, 2007 and one on 20 June, 2007. Do you
understand that?---Yes.

Now are you able to confirm that the documents that have been produced, which I ask you to assume are the bundle that I've given you, are all of the documents that the bank has that would be captured by that description?
---Could you repeat that question, sorry.

Perhaps if I show you a copy of the summons, open at the schedule and I'll just ask you to read paragraph 1, which starts off, including the preamble, which starts off with copies of the following ANZ Bank statements. I've
10 got one for the Commissioner and one for (not transcribable)?---The information here is solely the deposit or transaction information - - -

That the bank holds?---Yes.

Now is there any other bits of paper that the bank would hold in relation to deposits made into a credit card account in the middle of 2007?---It would depend on how the deposit was made.

All right. Forgive me being old fashioned, but there was a time that when
20 you put money into the bank that you went to the, the little desk there and got a deposit slip out and filled it in, gave that to the teller who would then cheque the information with the money or the cheques that were being deposited, stamp it and give you a, a receipt, being the butt off the end of the document. Are you familiar with that process?---Yes.

Does that exist as a process?---It's, it's one option, but not the only option.

All right. Another option I take it these days is if you're paying money into an account that has a card is to just present the card and then the teller can
30 swipe that card?---You can do that or you can present the card number.

All right. Now can I just ask you to go, if you go to the very back of the bundle and let me see, that is the document we have on the screen, so do you see that what it seems to show is a transaction that took place in relation to this account on 20 June, 2007. Do you see that?---Yes.

And if you look down a couple of lines under Trace Number there's an amount of \$6,170 cash. Do you see that?---Yes.

40 And if you turn to the next page we have another document, or perhaps it's part of the same document, and am I right in thinking that what that document does is break up into denominations the way that cash was made up?---Yes, that's right. Correct.

And then if we go to the next document, and tell me if I've got this wrong, it seems to be a document recording the same transaction but this one says an amount of zero cash. Can you help me with that one?---(NO AUDIBLE REPLY)

And it's got an account balance of negative \$6,162.13. So it seems to be saying that the \$6,162.13 has brought the balance down to zero?--(NO AUDIBLE REPLY)

Can you help us with that document?--From my experience I believe the three documents are showing different stages of the transaction as it's been deposited into the account.

10 Yep?--I, from my experience, the figure at the bottom showing negative \$6,162.13 could relate to the updated balance, but I'm not familiar with this particular screen shot because- - -

All right---?- - -it's part of the computer program that we use.

All right. Now, each of, well, two of the documents we've looked at so far have against the line method, manual card. Do you see that?--Yes.

20 Now, can you tell the Commissioner what you understand, if anything, that indicates?--That indicates that a card wasn't present at the transaction and that a number was manually entered or- - -

Now, what was it manually entered into, a computer or is, does someone write it on a bit of paper that's- - -?--It was manually entered into the Mitel telling transaction, a system that produces these documents.

Right. So the teller actually types it on- - -?--Yes.

- - -on the buttons and- - -?--Yes.

30 - - -it goes into the computer?--Yes.

All right. And is any record kept by the bank to allow the bank to confirm that the account that the money was actually banked into was consistent with the instructions given to the bank by the person depositing the money? Do you see what I mean? So if the teller made an entry, a key entry mistake - - -?--Yeah.

40 - - -and the person who'd made the deposit comes back next week and says, well, where's the credit for that cash, how, how, what records if any does the bank have to deal with that sort of situation?--These records are kept and then generally if someone comes into a branch to make a deposit they'll have the customer's account details or the customer will know their own details or if you're paying into a friend's account you'd know their personal details so the teller would be able to cross-check and check the name was coming up as being correct.

All right. So they get, they, they put in the number and then they check that that's the right name and there's some discussion?---Yes.

All right. But there's no receipt given to the person, the person who's there as a matter of course?---If I was to deposit funds into my own account I'd get a receipt.

10 So would I, but I'm just wondering if the bank offers that?---And then the next step is, the bank only gives back information relating to what, the information that we received.

Yep?---So the receipt of any history of the transaction only relates to the information that was presented to the bank at the time of the transaction.

THE COMMISSIONER: Yes, but what about that? I mean if somebody, if a friend goes into the bank and deposits several thousand dollars into an account, what does the bank give to the depositor as proof of the deposit? ---If the depositor provided the bank account name- - -

20 Yes---?- - -and the bank account number- - -

Yes---?---And they wished to get a, receive a receipt, they would receive a receipt with the bank account name and number. If they presented just the account name, they'd only get a stamped voucher with the account name on it or stamped voucher with the account number on it if that that was the only information presented.

30 But would, would this voucher or whatever it is - - -?---They'd be no record kept. It would be printed as a receipt from this transaction process.

MR NEWLINDS: So my, can we just take it step by step. My question was as a matter of course and we're talking about 2007?---Yeah.

As a matter of course would the bank offer a receipt or would it be a matter for the person doing the deposit to ask for the receipt?---A receipt is automatically generated, but sometimes it's declined.

40 And so is that printout, it's something that prints out perhaps information like one of these screenshots?---Yes.

And I take it often the customer would say I want to deposit this money and I'd also like to know after the deposit what the balance is. Would that be common?---Yes.

And the bank's capable of producing that information I take it?---Yes.

All right.

THE COMMISSIONER: But does that mean that inevitably, in every transaction the person depositing is offered a voucher which records at least what information the person depositing has given to the bank, such as the bank account number and the amount deposited?---Yes.

All right.

10 MR NEWLINDS: And so say if someone was silly enough to ask me to take some cash for them and put it into their account, I would, if I carried out those instructions, I would leave bank armed with a bit of paper from the bank that would confirm to anyone who was interested that I had put the money into the correct account?---It would be offered and if you requested it, yes.

But that would be offered and the only reason I wouldn't get it is if I declined the offer?---Yes.

20 Now can I just ask you one more question, when you say a manual card indicates the card wasn't present - - -?---Ah hmm.

- - - there is scope isn't there for this possibility, that a person turns up with their card and for some reason the swiping mechanism doesn't work and then, then it's dealt with manually?---Yes.

30 All right. But, and are you able to tell us how often that circumstance occurs? I mean is that, is that regular or is that an unusual event when you're putting money into a bank?---It's unusual for the magnetic card swipe not to work, but on occasion there is a requirement to make a manual entry.

All right.

THE COMMISSIONER: And if that occurs you also get the words manual card do you?---Yes.

40 MR NEWLINDS: All right. So would this be fair based on your experience and just looking at these documents, whilst it's possible the card was there, it didn't work and then the matter was dealt with manually, you would think the probability would be that the card wasn't there and the person had the details?

MR BEECH-JONES: I object.

MR NEWLINDS: Fair enough. I withdraw the question.

THE COMMISSIONER: Well I'm not sure why, what's the objection?

MR BEECH-JONES: (not transcribable) preceded by the question it's (not transcribable) respectfully that an event occurred, a particular event on a particular occasion four years ago.

MR NEWLINDS: In any event, I think we've got enough from the primary evidence, unless you want to ask the question again, Commissioner? I don't mind.

10 THE COMMISSIONER: Well I thought that you said that while it sometimes happens, it's, it's relatively rare that the, the card doesn't work when swiped. Is that what you said more or less?---More or less, yeah. But 'cause if your card didn't swipe you'd seek a replacement normally.

And would a replacement be given there and then or - - -?---No, no.

But the first steps would be taken to get a replacement would it?---Yes.

There and then?---Yes.

20 And the person would be offered a form I take it to apply for a new card would he?---No. So long as the primary cardholder was identified we could issue a new card on the spot or start the process.

Right. And are you able to say how or describe in general terms how often it is that someone comes in with only the card number and no card to deposit money?---It happens on quite a regular basis. Customers will come into a branch and deposit funds using the credit card statement as well.

30 MR NEWLINDS: All right. So they'll often actually have the statement and say I want to clear, I want to pay off this statement?---Yes.

That's not unusual?---No.

What about if they turn up with no official bank documents but with either a piece of paper or in their head the details of someone else's account? Does that happen from time to time?---My, in my normal role I don't normally (not transcribable) transactions but I wouldn't - - -

40 Would you be guessing if you answered?---I'd be guessing if I answered it, yes.

Have you ever worked as a teller in your career to date with the bank?---I have.

You have?---Yes.

All right. And what year was that in?---2006.

All right. Can you cast your mind back to that no doubt memorable period of your career, did, did people seek to, seek and manage to deposit money into accounts just by having on a bit of paper the details of the account written out?---Yes.

Thank you. I have no further questions, Commissioner.

THE COMMISSIONER: Mr Korn?

10 MR KORN: I just might have missed that, I just want to clarify, Commissioner.

Did I understand you to say, sir, that if, if somebody comes in just with some details in respect of, for example, an account holder, let's just say I wanted to send some money to Michael Jones in Cairns and I had an account, a BSB and an account number, that happens quite - well, that can, firstly, that can happen?---That can happen, yes.

20 Yeah. All right. And you wouldn't imagine if I for example came, came in - sorry, Commissioner, I think I'm standing too close, came in and said this person, I'm sending some money to this person's account, I want to put money in this person's account, I understand this to be the account number and this is the BSB for that, for them, all the teller would have to do is look that up on their system and confirm that's correct?---Yes.

And, of course, if, if it didn't appear to be correct then it would, you would expect the teller would say that BSB and that account number doesn't relate to that name you've given me?---Yes.

30 But apart from that if it did then there would be no problem banking the money?---No.

Is that right?---Yes.

Thank you.

THE COMMISSIONER: Mr Beech-Jones?

40 MR BEECH-JONES: Just quickly.

In the early questions you refer to the card not being presented leading to a manual entry, by that you meant the card not being swiped, is that right?---Yes.

And just on the various scenarios that Mr Newlinds put to you I think one was the customer coming in with their own credit card statement?---Ah
hmm.

And then, and then that leading to a deposit and that would result in a manually entered, is that right?---Yes.

And equally if the customer comes in for some reason and doesn't have their card, doesn't have their statement but has photographic ID that can also, and he makes the deposit on their own account, that would lead to a manual entry as well, is that right?---(NO AUDIBLE REPLY)

10 But if their, as long as they satisfied the teller that they are that person with that account at that branch.

THE COMMISSIONER: I don't that was his evidence, Mr Beech-Jones.

MR BEECH-JONES: No, no, I'm asking with another scenario. I'll start again.

THE COMMISSIONER: Yes.

20 MR BEECH-JONES: If a customer comes in without their credit card statement, without their credit card but with photographic ID and indicating they have a branch at that account - - -?---Yes.

- - - and seeks to put a deposit in the same - an account at that branch, and seeks to put a deposit in to that account the teller can process that transaction, is that right?---Are they just showing up with their name and identification or with an account number?

30 With their name and identification but no account number?---We'd be able to - - -

THE COMMISSIONER: Mr Beech-Jones, I'm sorry, you're speaking very quickly and I can't hear you.

MR BEECH-JONES: I'll start again. They show up with their name and their identification but no account number but the account is at that branch, the branch can bring up their account number?---Yes, we'd be able to access it.

40 Yes. And they'd be able to process a deposit into a particular account? ---Yes.

And that would result in a manual entry as well if - - -?---If it was, if it was processed onto a credit card it would show up as a manual entry. If it was processed onto a BSB and account it would just show up as a deposit.

I see, thank you.

THE COMMISSIONER: But whatever happens a voucher would be given to the person concerned reflecting whatever the person told the bank?

---Yes.

And if, and the amount of money deposited?---Yes. And that, if the customer came in and they had identification we'd obviously try and identify them as best as we can and they'd get a full receipt.

10 For the purpose of - if a person comes in knowing the, the bank account number but has no photographic entity but money, the bank would take the money and deposit it to the credit of the account?---Yes.

If a person comes in and doesn't have the bank account number but has photographic identity and money, the bank will assist in finding the accountholder?---Yes.

20 And if the accountholder has a bank account and a credit account and a, and a bankcard account, I take it that the teller would ask the person depositing the money into which account the bank, the money should be deposited? ---Yes.

MR NEWLINDS: Can I just ask one final question?

THE COMMISSIONER: Well, can we just wait?

MR NEWLINDS: I'm sorry.

THE COMMISSIONER: We have a, Ms Hogan-Doran?

30 MS HOGAN-DORAN: I have quite a number of questions so if Mr Newlinds wants to ask his one question- - -

THE COMMISSIONER: Oh, I see. I thought it was in reply. But anyway, do you want to do that, Mr Newlinds?

MR NEWLINDS: Yes. I take it, sir, that there's not much call for monitoring fraud in relation to deposits into accounts?---(NO AUDIBLE REPLY)

40 In other words, the bank might be much more careful in identifying a particular person if what that person was trying to do was to take money out of an account as opposed to put money into an account?---In my experience as a branch manager ah, my staff are aware of transactions going both into and out of accounts and what's normal and not normal.

Thank you.

THE COMMISSIONER: Ms Hogan-Doran?

MS HOGAN-DORAN: Mr Johnson, my name is Hogan-Doran and I appear for Mr David. Into, I'm going to ask you a number of questions on different topics. Just on the first topic, are you aware of the other branches in and around the area in which you are presently manager of the ANZ?

THE COMMISSIONER: You mean aware of their addresses?

MS HOGAN-DORAN: Yes?---Yes.

10 There, is it correct that there's a branch at 7 Macquarie Place?---Ah, I'm not sure when that branch closed, by my current branch is the 7 Macquarie Place branch which relocated to 37 Pitt Street.

Just pausing that for a moment, the 7 Macquarie branch, did it, did it merge or did it move?---I'm, I'm not sure, sorry.

There's also, do you recall there was also a branch at Level 6, 20 Martin Place?

20 THE COMMISSIONER: At what date?

MS HOGAN-DORAN: In June 2007?---To the best of my knowledge there's only the one branch at Martin Place on the ground floor.

Would it be or could it be that Level 6, 20 Martin Place is a private banking suite, does the ANZ have a private banking suite?---Yes.

Yes?---It may be located on that floor.

30 And in about June 2007 there was also a branch at 68 Pitt Street?---Yes.

Do you know or have you made any inquiries as to whether or not Mr Kelly, whose transaction reports you've had shown to you this morning, holds his branch, his home branch is your branch at 37 Pitt or was at the branch at 37 Pitt?---I haven't made any inquiries.

Is, looking at the first page of the document that you have in your hands, has this been marked or tendered?

40 THE COMMISSIONER: No.

MS HOGAN-DORAN: 2110, is that the unique branch identifier number? ---That's the branch where the deposit took place, yes,.

Right. Just casting your eye across to the customer card number, 5468 and so on, 5468 is the MasterCard reference. That's correct, isn't it?---Yes.

Yes. And is it correct that nowhere in the rest of the balance of that card number can one deduce or assume or understand what branch the cardholder has as there home branch?---That's true.

And just staying on, I might jump around the questions, but just staying on this first page, the log time, 18 June 2007, is it your understanding that the numbers that follow are the numbers down to, it would seem some rather particular decimal point, puts that transaction at 12.55 approximately?
---This is a format that I'm not familiar with. The system that I work with shows differently- - -

Yes---?- - -so I couldn't answer that question.

All right. Do you know if there is someone within the bank who would be able to answer that question?---On request someone would be able to answer that question I'm sure.

Just assuming for me, if you would, that it does show that time, are we to understand by looking at that page and the pages that follow, the three pages that follow, the time, and accepting or assuming that that is a time indication, 12.55 and a number of second, two seconds, 12.55 and 50 seconds and so on, you described in your evidence that these transactions are, sorry, these computer logs indicate the processing of the transaction by the bank's computers?---Yes.

Is that right? And are we to understand, and it may be that you aren't the person who can tell us this, but are we to understand that in effect these all, these four documents show the computer's working as it processes the transaction but because they are all so close together, that is within seconds and milliseconds, that it's all effectively one transaction by the teller, one, it's the processing that goes on behind the actions of the teller?

THE COMMISSIONER: Which pages, are you referring to the four pages, Ms Hogan-Doran?

MS HOGAN-DORAN: Commissioner, if you look at the top of each of those first four pages- - -

THE COMMISSIONER: Yes.

MS HOGAN-DORAN: - - -beside the log time, there's a 12.55.02, 12.55.05, 12.55.45, 12.55.46.

THE COMMISSIONER: Yes.

THE WITNESS: Yes, I believe that to be correct in the- - -

THE COMMISSIONER: Is it, sorry, I beg your pardon.

THE WITNESS: I was just going to, when the customer comes in, the teller would select withdraw or deposit, the account number would be entered, cash counted and then cash entered into the break-up screen and then a receipt would be printed and that transaction might take a minute.

THE COMMISSIONER: Does the, does the bank always have some mechanism whereby the time of the transaction is entered into the computer?---(NO AUDIBLE REPLY)

10

Never mind looking at this, but as a general rule?---I my experience on accounts, like BSB and account number-type accounts, chequing accounts, there will be a time available and (not transcribable) recording of the transaction and, but I'm not familiar with credit cards, but I assume the same process would be followed.

That is to say the precise time at which the deposit is made would be recorded on the computer in some form?---My experience is yes.

20

And one should be able to see the time on these documents which are in front of you, on each one of them?---These, these documents are from the telling transaction, there's another system that we'd use that would show the time that, that I, that I would use in my normal day-to-day work.

So are there other documents relating to these transactions?---I'm not sure how long the other system holds that information for it.

Has the bank, have you looked for the documents relating to these transactions?---I haven't been requested to.

30

But what did the summons ask you to do?

MS HOGAN-DORAN: Mr Johnson, the position is - - -

THE COMMISSIONER: It's addressed to the proper officer.

MR BEECH-JONES: Apparently it's someone in Goulburn we're told.

40

MS HOGAN-DORAN: Mr Johnson, the position is isn't it that the bank does hold a number of additional records in respect of these two transactions. Those records would include the kind of records, well the bank had records and I'll put to one side the question as to whether or not the bank still maintains those records, but the bank would have generated in respect of these two transactions at the time, that is in June, 2007 records which indicate activity on the account and that is activity of the kind that you just described to the Commissioner. Do you agree with me?---Yes.

Yes. And the bank also would have kept or would have a, what some banks call a customer interaction log. Are you familiar with that description?
---I've only recently been able to access a system similar to that, but I believe that that system does exist.

THE COMMISSIONER: Where is it?---It's not part of my role at 37 Pitt Street, I've had very limited access to that sort of information.

10 MS HOGAN-DORAN: Just pausing on that, that, that kind of information, it's the position isn't it that a customer in respect of the accounts that they have, the bank keeps a record in respect of inquiries made by that customer in respect of the operation of those accounts?---I believe that you know statements and those types of things are held and I'm not familiar with the time restrictions on holding that type of information. But I am aware that there are different backup systems that hold that information. And it's not immediately accessible to me.

20 Right. And if for example an accountholder was to telephone the bank, for example, to make an inquiry in respect of their account, for example an inquiry, when will my statement be issued, that is the kind of inquiry that would be recorded by the customer service operator who has the conversation with the accountholder?---Can I clarify? Are you saying that they'd be a log against the customers profile that they've requested a statement on such a date?

30 Just taking it in two portions. Would there be such a log in respect of, that may include some inquiries that a customer may make of a bank?---Can I try and answer your question like this, recently I've had access to a system that captures the last few times a customer may have made an inquiry to the bank. But that system doesn't provide information particulars down to requesting a statement or making a deposit. It just shows a contact point and I wouldn't be, I'm not, I haven't personally used or familiar with any other system, but one may exist.

I see. So it may be that there are such records kept by the bank but you're not sufficiently familiar with them to be able to assist us more than you have?---I don't use them in my role.

40 Did you work at any other banks before you worked at the ANZ?---No.

It may be that you can't answer this but I'll ask you, Mr Johnson, in respect - are we to understand by the production that the bank has given to the Commission that these are the only two transactions that occurred on, on that day and when I say transactions I mean all activity in respect of this account on those two specific days?

MR NEWLINDS: (not transcribable)

MS HOGAN-DORAN: Righto. If such an inquiry was to be made of the bank do you know whether an additional log would be generated or would it be otherwise captured by the material that's been produced?

MR BEECH-JONES: I object, only because - well, two inquiries, is my friend putting an inquiry being made now of the bank or an inquiry being made of the bank back on 18 or 20 - - -

10 MS HOGAN-DORAN: I'll be more specific. What I'm getting to is if - are we correct in understanding - can I get you just to look at page 2.

THE COMMISSIONER: Well, they're not numbered. So you mean the second page?

MS HOGAN-DORAN: The second, the second page. Where - on page 2 as I understand and as I, and would the Commission be correct in, in interpreting this document to indicate that this states the status of the, of the account, that is its debit balance as at that moment?---I believe that's true.

20 Right. And would the Commission be correct in understanding that it does not - it is not to be interpreted as indicating that a specific - what might be called an account balance inquiry which I know on an EFTPOS, on a, on an ATM one can select do you want to select a balance inquiry, do you want to do a deposit, do you want to do a withdrawal, those documents are not to be interpreted as being a balance inquiry?---From my experience, just looking, no, it's not a balance inquiry.

30 And could I ask you to go over to what I have numbered as page 8, so it's about three from the back and that should have account balance minus 6,162.13, short name only A Kelly, do you have that?---Yes.

I see.

And the Commission is to understand again in the same way as your answer a moment ago, this too is not a log of a balance inquiry?---It looks, looks the same format as that first one .

40 All right. And just looking through the other pages, are you able to - do any of these - just in respect of the last - the June 20 logs, do any, are any of those balance inquiries?---From my experience they, they look to me like different stages of the transaction process.

Does that mean the answer is no?---I don't believe a, a balance inquiry would take that format, no.

MS HOGAN-DORAN: And if a balance inquiry was made there would be a log of that?---(NO AUDIBLE REPLY)

Just pausing you while you consider that - - -?---Yeah.

- - - is the process that in order to make a balance - - -

MR KORN: (not transcribable)

MS HOGAN-DORAN: Sorry?--- I think - - -

10 MR KORN: You can't have two questions on the table at the same time.

MS HOGAN-DORAN: No, no, I, I accept that, I accept that?---From my experience if a balance is requested then the card is swiped and there's a PIN entered or identification's taken and I would assume there's some log but I would have to go back and, and look at that.

Do you know, Mr Johnson, if it is the case - sorry, no, could Mr Johnson be shown page 376 of Exhibit 6. Mr Johnson, this is an ANZ MasterCard statement. To your knowledge, is this statement issued by the credit card provider, that is MasterCard, the brand, or is it a statement produced by the bank?---It's the bank.

20

Right. And just looking at the statement period, 18 June, 2007 to 17 - sorry, I should have got (not transcribable) 17 June, 17 July, 2007, is the practice of the bank to issue the statement after the conclusion or upon the conclusion of the statement period?---Can you - - -

Perhaps I'll put it - when would the bank, when would the bank issue a statement in respect of that statement period?---Normally credit cards will have a credit card cycle and there'll be a specific statement date that will - a credit card statement will be generated.

30

THE COMMISSIONER: Well, does this have a statement date, can you see - does this document have a - does this statement have a statement date?

MS HOGAN-DORAN: It doesn't appear to have a statement date?---That's the date typed - the way it's been produced or the font used mightn't be clear but there'd normally be a due date and a statement date on the - that statement.

40

THE COMMISSIONER: You mean on the original?---(NO AUDIBLE REPLY)

Are you saying - I'm not sure what that means, Mr Johnson?---Under payment, payment summary but in this case there's zero balance due so there may not be any due date listed on that statement but there'd be a statement date somewhere on this, on - in my experience it'd be a statement date.

MS HOGAN-DORAN: Could I ask Mr Johnson to be shown page 271. Mr Johnson, is that under minimum monthly payment \$224, due date 12 July, 2007, is that the due that you were just referring to a moment ago?---Yes.

Right. Looking at the statement period, do you know when in the ordinary course the bank would issue, would have issued the statement in respect of this statement period?---I assume it would have been issued on 18 June, following the last day of the period.

10

And just the last question, on page 272, the, you'll see that there's a conversion from Durham to Australian dollars?---Yes.

And a conversion fee. Do you know whether or not the conversion fee, is that something that the bank determines or is that determined by some third party?---My understanding is the user credit card overseas, they determine the currency conversion rates. But the - - -

20

THE COMMISSIONER: Who is they?---Master Card or Visa.

MS HOGAN-DORAN: I don't have any other questions.

THE COMMISSIONER: Yes, thank you.

30

MR BEECH-JONES: Commissioner, I'd seek leave to ask some questions that arise out of that. Can I just ask you about, if you go to the last page of that bundle you've been taken to, which I think is recording the deposit into the account on 20 June. And I just want you to accept, act on this assumption that the person making the deposit is the customer and if they customer requested the teller orally, verbally to tell them what the state of the account was, firstly the teller would advise, advise them that because the teller would have the details on their screen. Is that right? At the time of this transaction?---Provided the teller was sure that was the accountholder they could, yes.

Yes. And the fact that the customer had requested that and the teller had told them that would not be recorded to your knowledge or not necessarily recorded in any log anywhere that exchange would it?---Yes.

40

And if you, also just dealing with accounts generally, I take it ANZ had online banking enforced in 2007. Is that right?---I'd assume so.

And a customer could access their details of their, the amount owing on their credit card really at any time. Is that right?---Yes.

Yes, thank you.

THE COMMISSIONER: The, the, is there some rule as to how the teller is to satisfy himself or herself as the identity of the customer?---The preferred method would be photographic ID, either an Australian driver's license or passport. And the secondary method would be to ask the security code unique to the accountholder and a series of questions.

I see. Nr Newlinds, Ms Mirzabegian, do you have any questions?

MS MIRZABEGIAN: No, I don't have any questions at all.

10

MR NEWLINDS: Are you aware whether the bank keeps a record as to whether a receipt has been produced and given to the customer on the one hand or not produced at the request of the customer on the other?---No.

You don't know whether any record is kept?---I, I assume not. My experience is the receipt will print anyway, so the service consultant would discard of it.

So it's a question if the customer doesn't want it, it goes in the bin?---Yeah.

20

So it's automatically generated - - -?---Yeah.

- - - in relation to all of the scenarios that you've been asked about over the last hour?---The, the receipt that's generated is a generic receipt, so if the, if the accountholder's - that accountholder used their card the receipt can be given to them. And, but if the teller's not confident or the customer has only presented part of the details on the receipt, because the receipt will show the name and the account number, we would produce a manual receipt on request that only has the specific details that the person's provided, of

30

receipts available.

I have no further questions and as far as I'm concerned this man can be released.

THE COMMISSIONER: Yes. You may be excused, Mr Johnson.

THE WITNESS EXCUSED

[11.10am]

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MR NEWLINDS: And might I tender, Mr Commissioner, some of these printout documents are actually in the bundle, but I thought what I'd do is tender them as a bundle and also under cover of the notice to which they responded.

THE COMMISSIONER: Well, yes.

MR NEWLINDS: Which I'll hand up a copy of if you- - -

THE COMMISSIONER: The Notice to Attend and Produce Documents addressed to the Proper Officer at the Australian and New Zealand Banking Group Limited is Exhibit 13.

#EXHIBIT 13 - COPY OF NOTICE TO ATTEND AND PRODUCE DOCUMENTS SENT TO ANZ DATED 17 MARCH 2011

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THE COMMISSIONER: Exhibit 14 is a bundle of ten banking documents, copies of, I withdraw that and start again. Exhibit 14 is a bundle of computer-generated documents, ten in number, from the ANZ Bank about which Mr Johnson was questioned.

#EXHIBIT 14 - BUNDLE OF COMPUTER GENERATED DOCUMENTS (x10) FROM ANZ BANK

20

MR NEWLINDS: (not transcribable)

MR BEECH-JONES: Commissioner, could I ask for a Suppression Order on the card number in both documents?

THE COMMISSIONER: Yes. There will be a Suppression Order on the card number in both documents.

30

SUPPRESSION ORDER ON THE CARD NUMBER IN BOTH DOCUMENTS.

THE COMMISSIONER: It might be convenient to take a five-minute adjournment.

MR NEWLINDS: Thank you, Commissioner.

40

SHORT ADJOURNMENT

[11.12am]

MR NEWLINDS: I recall, recall Mr David.

THE COMMISSIONER: Yes.

THE COMMISSIONER: Mr Korn.

MR KORN: Thank you, your Honour.

Mr David, good morning?---Good morning.

10 For the record once again, I forgot the last time whether I've done this, I assume I did but I look after the interests of Mr Charif Kazal and Mr Karl Kazal. Do you understand that, sir?---Yes, I do.

And Mr - especially if I'm standing too close I don't expect this to be a problem but if at any time you don't hear anything I say please stop me, correct, you understand that?---I understand.

And at any time if you don't understand a question I'm asking you absolutely stop me straightaway. You can't possibly give an answer to a
20 question if you don't understand it. Do you understand that?---(NO AUDIBLE REPLY)

Mr David, what I want to put to you is a topic we only just started on last week before we called it, called it quits for the day but it's essentially this, I'll put it as a compendious proposition and then I'll come back to it and break it up. I suggest to you, sir, that in fact Seba as a proposed business venture was introduced to you by Charif Kazal in early, early 2007. What do you say to that?---In about May of '07.

30 You knew that Seba, amongst other things, was a facilities management based proposition as far as Parkview was concerned, do you agree with that?

MS HOGAN-DORAN: Objection, proposition, what does - - -

MR KORN: The venture that you had in mind in terms of an opportunity that was being, that, that you saw being presented via Seba involved facilities management rather than any form of construction, correct?---I believe it was facilities management, property management, valuation services and not - having to do with sales, project management.
40

All of those things in contradistinction to construction of, of per se, correct. ---It's separate to the Al Falah Community Project, yes.

Well, I didn't ask you about the Al Falah. But all of those, all of those aspects that you outlined to us are in contradistinction to an aspect of building that you would properly describe as construction, do you agree with that?---No, I wouldn't agree with that.

Was construction part of what was envisaged with the Seba proposition?
---There was a potential, yes.

A potential. But in fact what was on the table, what was primarily on the table were, was amongst other things facilities management, correct?---I wouldn't have classified it as anything on the table, Mr Korn. It was an exploration of a potential opportunity to discuss with Seba for facilities management, valuation services, project marketing and the like.

10 Yes, we understand that the first time you put the proposal to go over there was, was at a time when nothing was on the table, you can understand that I accept that?---Mmm.

In fact, in that regard what Charif was doing for you was in fact introducing you to opportunities in the Middle East, correct?---No, I wouldn't have classified it that way, no.

20 No. What - how would you describe what Charif was doing for you?---He asked me to come along and investigate the opportunity of the Al Falah Community Project.

So that he didn't ask you to come along, you fell over at the opportunity that you thought that he was providing, that's more to the point, isn't it?---No.

And in fact when you got over there, to use a - your eye's popped in the sense of what you thought were the magnificent opportunities that were available to you, correct?---No.

30 No, not at all, not at all?---(NO AUDIBLE REPLY)

Is that not right?---I thought I answered your question.

You didn't get excited at all about what you saw over there?---I thought there was nice tremendous potential but I wasn't excited, no.

The only thing you were disappointed about was the Al Falah project which was, as you described last week, a disappointing one-hour meeting, correct?---Yes, it was a disappointing meeting, yes.

40 But at the end of the day, in fact I'll withdraw that. That Al Falah project was in fact very much a sideline venture only after what you considered to be the prime importance of anything that could be looked at with Seba, do you agree with that?---No, I do not.

In fact, the Al Falah project was only ever booked to be a meeting, a 10 o'clock meeting on the very last day that you proposed to be there, correct?---I don't recall the specific time of the meeting.

In fact overwhelmingly, we'll come back to that, overwhelmingly the, the time that you spent in the UAE was directed towards further opportunity presented by and with Seba, is that correct?---No, it is not.

10 Did you meet with anybody - I'll withdraw that. Let me, let me, let me suggest to you the following is a - without going into too much detail but I can do more if you like, let me suggest to you that in fact the timetable, the way time was spent from the time of your arrival in the UAE until the time you left was as follows. You left Australia on 26 May, 2007, correct?---I believe so.

You arrived on 27 May, 2007 at or about 6.00am local time, that's correct, isn't it?---I'm not sure.

You arrived in Dubai, didn't you?---Yes.

There was a one, a one and a half hour motor vehicle trip required from Dubai to Abu Dhabi, correct?---Approximately, yes.

20 And all six of you were conveyed in two or three Limousines which had been provided by Emirates Airline, by Airlines, is that correct?---I don't recall.

THE COMMISSIONER: Is this really relevant, this level of detail, Mr Korn?

30 MR KORN: I'm simply at the moment, Commissioner, I'm trying to prompt his memory and then I'll try and cut it down, that's all I want to try and achieve.

Let's, let's move forward. Day 1, apart from arriving at the Emirates Palace, day 1 was basically a recovery and freshen up day, correct?---I don't recall. I recall being in the swimming pool with Mr Touma and Mr Tabet.

40 Except for one this, Charif to your knowledge had spoken with you and told you that he'd organised a meeting for you and your team at the private palace of Sheikh Nahyan, spelt N-A-H-Y-A-N, the Minister for Higher Education. That was organised and you were aware of it, correct?---No, I'm not aware of that.

Didn't you go?---I'm aware we went to the majlis of Sheikh Nahyan - - -

Yeah?--- - - - in Murba.

You went - - -?---Somehow.

You went to his private palace, did you not?---I do not believe so.

Do you say it wasn't his private palace?---I wouldn't know.

Okay. And if you don't know why do you say you don't believe so?---Well, because it wasn't a palace.

All right. And in fact did all six of you go?---I don't recall.

And was that a meeting at 4.00pm in the afternoon?---I don't recall.

- 10 And did Charif tell you that the reason why he was taking you there to in fact his - the Sheikh's private palace was because that's how high level business is done in the UAE, did Charif tell you that?---I don't believe so.

It was a less formal environment and there were likely to be other high-level businessmen there. Did he tell you that?---No.

Did he also tell you I suggest that in fact there might well be, be likely to be other higher level sheikhs who'd come to the palace?---No.

- 20 In fact he gave you quite a considerable amount of detail about who was connected to whom by familial relationship and what status and/or position that gave them in business over there. That's what Charif gave you, isn't it? ---No.

And indeed that's why he told you that he, as part of what he was trying to do to introduce you to business opportunities over there, that's why he was taking you to that sheikh's premises. He told you that, didn't he?---No.

- 30 Did you think you were going there just to pass the time of day?---No.

Why did you think you were going there?---At the time I don't recall specifically but I do understand protocol in the UAE and it's normal for all the ruling members of the UAE ruling family to open up their majlises for any member of the public to come and- - -

For any member of the?---Public.

Sir, you went- - -

- 40 THE COMMISSIONER: What is that you- - -?---Majlis.

What is that, Mr David?---It's a, it's a circular room, it's a greeting place where the host, the individual of the house welcomes guests.

And do you know how to, how does one spell it?---Majlis, I believe M-A-J-L-I-S. It's an Arabic word.

MR KORN: It was a large meeting room in his private palace, wasn't it?

---No.

A meeting room that by its very, by its very confines was capable of holding up to about 60 people. Correct?---It was a circular room with, with a couch around the whole outer wall. I couldn't tell you how many people could fit in the couch, I'm sorry.

THE COMMISSIONER: Mr Korn, I really don't know how this is helpful.

10 MR KORN: All right. If I just finish with this and I'll move onto the next day. In fact Charif introduced you to the sheikh by name? He did that, didn't he?---I wouldn't know. I don't speak Arabic.

In fact, in fact the conversation that took place in fact took place in English, didn't it?---No, it did not.

And Charif introduced you as Rodric David and each of your team by name in your presence in English, didn't he?---I don't recall.

20 He introduced you in English?

THE COMMISSIONER: I'm going to stop this.

MR KORN: All right.

THE COMMISSIONER: I really think you've had enough latitude. I really find this questioning entirely irrelevant.

MR KORN: Thank you. May I move to day 2, only because
30 Commissioner, I want- - -

MR NEWLINDS: May I just make this observation. I don't recall Charif giving any of this evidence at this detail.

THE COMMISSIONER: No. He wasn't questioned no.

MR NEWLINDS: So it suffers from that problem as well.

THE COMMISSIONER: It's not an issue. This doesn't go to any issue
40 that's been raised in this inquiry.

MR KORN: Well, it goes to this issue. What we want to demonstrate is that so much time was spent in respect of the Seba project that in fact it will become absurd to suggest that Mr David did not have Andrew Kelly over there as part of his team.

THE COMMISSIONER: Well, there are ways of putting the proposition, Mr Korn, succinctly.

MR KORN: All right. I'll do it more succinctly. Day 2, 28 May, 2007. Did you in fact go on that occasion to meet a Dutch businessman that Tony Kazal had organised, the topic of which, the topic of discussion of which was facilities management in the UAE, the protocol in respect thereof and what was required? That's as succinct as I can put it?---I have no recollection of a Dutch businessman.

10 Day 3, at 10.00am on day 3, 29 May, did you have your first meeting with, with Seba?---I don't recall which specific date we had a meeting with Seba, no.

Seba was the first of the matters of interest or the proposed persons of interest in terms of pursuing a business venture that you ever had any meeting with. Is that correct?---Can you repeat the question? I don't know what you're getting at.

20 Yes. Don't worry about what I'm getting at, just listen to the question. Seba was the first business opportunity that you had, anyone had a meeting with in respect?---I don't recall whether we met with Seba first or Aldar first.

THE COMMISSIONER: So what was their name, please, Mr David? You said Seba first or - -?---I don't recall whether we met, once we were in the UAE I don't recall whether we had the meeting with Seba first or whether it was Aldar first.

What's that name?---Aldar.

30 Aldar. That's a different organisation?---Yes.

MR KORN: A-L-D-A-R. In fact your meeting, may I suggest, prompt your memory, with Seba was at their offices from 10.00 till approximately 11.30 in the morning. Do you, do you agree with that?---I don't recall. I do recall at their offices however.

At the offices Charif introduced you and your Parkview team. Correct? ---I introduced myself, yes.

40 THE COMMISSIONER: I'm not, I really don't understand what the relevance is of who introduced who.

MR KORN: Well, it's a bit of a point of he introduced Rodric David and his team in this man's presence.

THE COMMISSIONER: Yes, Mr Korn.

MR KORN: And that you took over and you gave what might be properly described as a corporate spiel in respect of your own position, your own qualifications and your own background. Do you agree with that?---I would disagree with that.

And that thereafter you introduced each of your other members of your team, including Tony Touma, Emile Tabet, Clint Willoughby and Andrew Kelly as being members of your team and gave an explanation of their areas of expertise. Do you agree with that?---Disagree.

10

THE COMMISSIONER: Are you saying, are you saying that Mr David used the phrase, "as my team?"

MR KORN: Yes.

THE WITNESS: Disagree.

MR KORN: Did you, did you speak to the qualifications of each of those persons, which included Mr Kelly, individually in terms of what their background and expertise was?---No, I did not.

20

Did anybody?---I do not recall anyone else saying their own capabilities.

And after the formality or the formal side of the meeting, in fact Seba hosted a lunch for, for all of you at the Hilton Hotel. Correct?---I don't know who hosted the lunch.

You went to a lunch at the Hilton Hotel?---I don't recall.

30 With the personnel from Seba. Correct?---I don't recall.

What, you simply recall going to lunch but you don't know who you went to lunch with?---No, I don't recall having lunch.

You don't remember that in fact it was virtually a continuation of the Seba proceedings?---I recall as regards to Seba a very general meeting and then a tour, excuse me, and then a tour of one of their villa developments called (not transcribable) Village.

40 In those proceedings on that day, which was now day, which was now day 3, Rabih Karam gave you a list of their property, of Seba's property holdings, didn't he?---I don't recall. I believe it was emailed to me after we returned.

You believe. Is that just a stab in the dark or is that something that we can concretely rely upon?---No, I received documents from Rabih Karam via email after we returned.

I suggest he gave those to you in fact during the course of the time that you spent with he and his people from Seba that day, on day 3. What do you say?---I don't recall.

And indeed- - -

THE COMMISSIONER: Again, to take up a point that Mr Newlinds made, none of this evidence was led from Mr Kazal. I don't really know where we're going.

10

MR KORN: Commissioner, that may well suffer from that, that vice, but it is still relevant in my submission to this proposition that this man took Andrew Kelly there and he was always there because of his expertise in facilities management and everything to do with Seba in terms of whether you describe it as just something we're looking at or whether it went any further than that, concerned facilities management.

20

THE COMMISSIONER: Whether he, I mean, in what capacity Mr Kelly went there depends on the internal arrangements between parties. It doesn't depend upon what they said because everybody there admittedly told lies.

MR KORN: Mr Commissioner, the expertise, our submission will be that the expertise that Mr Kelly to this man's knowledge was capable of bringing to the table could only have relevance to Mr David and that on that basis- - -

THE COMMISSIONER: Well- - -

30

MR KORN: - - -on that basis it is likely, overwhelmingly likely we will submit that in fact he paid for his trip.

THE COMMISSIONER: Mr Korn, you must deal with the case as you wish, as long as it's within bounds of relevance.

MR KORN: That's the relevance we see, Mr Commissioner.

THE COMMISSIONER: Yes. But at the moment I don't see the help of the questions that are being asked, so if we just proceed.

40

MR KORN: All right.

THE COMMISSIONER: Why don't you get to the nut of it?

MR KORN: Would Your Honour, would you just permit me to do that with a little bit of background, Commissioner. You see, what I suggest is that the very next day, day 4, was spent in fact going to visit properties as part of Seba's property portfolio. What do you say about that?---You're incorrect.

And indeed I'm incorrect, what, you never went to see any such properties?

---Oh, yes, we did, very much so.

Seba properties?---Yes.

Seba properties that Seba was going to cede to you- -?---No, sir, you've got the wrong trip.

Just, no, so I suggest to you that in fact it was - -?---We saw the Seba properties in February, in the, in the early 2008 trip.

10

So you say Mr David?---Okay.

And in fact what I want to put to you is that during the course of you visiting by way of a car trip on day four various properties that have been introduced to you by Seba as being part of their portfolio, that's when you got the idea for the helicopter trip. What do you say to that?---Not true.

And that in fact you organised, what you asked Charif to do was to find out how he could organise a trip. Do you remember that?---Not true.

20

And that you paid for it didn't you?---Not true.

Do you know who paid for it?---Charif Kazal.

I'm sorry?---Charif Kazal.

Did you see how he paid for it?---I believe so.

How did he pay for it as you saw it?---At the hotel.

30

By what means?---Cash.

By cash. Did you see whether he got a receipt for it?---I don't recall.

Did you see him get any apparent documentation in respect of him paying for it?---I don't recall.

You see that's just a bald face lie isn't it Mr David?---No.

40

Indeed moving to day five, day five was 31 May, 2007, that was the occasion you had the one and only disappointing meeting with Aldar. Correct?

MS HOGAN-DORAN: I think Mr David (not transcribable)

THE COMMISSIONER: I beg your pardon? Ms Hogan-Doran, if you have an objection please stand and make the objection in the proper way.

MS HOGAN-DORAN: I do apologise, Commissioner.

THE COMMISSIONER: Are you making an objection?

MS HOGAN-DORAN: Could I just confirm with Mr Korn, if he confirms as I expect he will, I'll withdraw the objection. Day two he describes as the 28th, day three he describes as the 29th and day four as the 30th.

MR KORN: Yes.

10

MS HOGAN-DORAN: Then I'll withdraw my objection.

MR KORN: Do you remember the question Mr David?---No, I do not.

Day five being 31 May, 2007, that was the occasion for your one hour disappointing meeting with Aldar. Correct?---I believe so.

And the following day you departed, departed Abu Dhabi did you not?---I believe I departed on the 31st.

20

You departed after the meeting, when I say after, I don't mean immediately after, but any event, you departed subsequent to the time at which you had the meeting with Aldar?---Yes.

How many people were you expecting to go on this first trip to the UAE, Mr David?---Three, four.

And who were they?---Tony Touma and myself initially and Charif Kazal.

30

And you completely and utterly deny do you not that in fact you ever knew that Andrew Kelly was going along?

THE COMMISSIONER: No, that's not his evidence.

MR KORN: I'm sorry.

THE COMMISSIONER: That's not his evidence.

40

MR KORN: When did you know that Andrew Kelly was going to be in the UAE with you?---In May of '07.

May. And how did you come to find out?---I don't recall.

And who informed you?---I believe Charif Kazal.

Did you, after you were informed did you regard Mr Kelly as thereafter being under your banner?---No, I did not.

Or under the banner of Parkview?---No, I did not.

I have an email which I showed to my learned friend the other day. I have sufficient copies and I'm going to show one to the witness if I may?

THE COMMISSIONER: Yes.

MR KORN: And I have a copy for you, Commissioner. Commissioner and Mr David. Do you see that document?---I do.

10

Is that a document on its face emanates from you?---It, it does.

And the subject of that document is Parkview Travel to Abu Dhabi?---Yes.

And do you see in the second line that you describe that your choice of words is there will be six of us in attendance?---I do.

How were the six of us that you describe as being in attendance?---I don't recall.

20

You don't recall?---No.

If I hold up this photograph here Mr David - - -?---Yes.

- - - which we've seen before and I'm not going to take the time to put it up on the screen again unless you require it?---Yes.

There are six persons in that photograph aren't there?---Correct.

30

They are the six people that went to the UAE are they not?---Ultimately, yes.

And they are the six people that at or about that helicopter ride. Correct?---There are six people there, yes.

Yes. And they're the only six people that were over there and in your presence in respect of any meetings with anybody about any proposed or prospective work for Parkview in the UAE. Correct?---With Aldar? Can you repeat the question, please?

40

Yes. They are the only six people that were ever in the UAE for any part of any work for Parkview. Correct?---No, that's not correct.

How is, in what way is any part of that incorrect?---There were six people in the UAE at that time, yes, but they weren't there for the meeting with Aldar and Parkview.

Well sir, isn't the, isn't the email that I have, you have in front of you now dated Tuesday, 8 May, 2007 at 12.18pm, isn't that to a gentleman who in fact is connected with Aldar?---Yes, it is.

So six of us were going to be in attendance in relation to Parkview's travel to Aldar for business with Mr Al Nawais, Nawais - - -?---Hazem Al Nawais.

- - - Hazem Al Nawais, who is connected with Aldar. Correct?---He is with Aldar, yes.

10

No, no, six of us, that's what your email says, that six of us are going to be in attendance - - -?---Yes.

- - - in relation to Parkview's travel to Abu Dhabi for meetings with you and Mr Hazem Al Nawais in respect, to prospective business with Aldar. Correct?---Correct.

And the six of those people included Mr Kelly didn't it?---No, it did not.

20

Well how was, the six in the photograph clearly include Mr Kelly doesn't it?---That's ultimately the six that - - -

Mr David - - -

THE COMMISSIONER: Let him answer.

MR KORN: That's ultimately the six, I cut you off?---Yes. At Parkview we had internal discussions as to who should attend the meeting to represent Parkview and talk about detailed construction issues.

30

Was there somebody else that was supposed to go who didn't go?
---Internally at Parkview we discussed numerous guys. Our head of construction at the time.

Would you answer my question?

THE COMMISSIONER: Yes, I think he is answering.

THE WITNESS: I'm answering your question.

40

MR KORN: Was there somebody else who was proposed to go who didn't go?---Internally at Parkview there were numerous people put forward. At one time I wasn't going.

Was there somebody else other than the people represented by this photographic representation in respect of whom you expected they would attend from Parkview but who did not attend?

THE COMMISSIONER: I don't think that's a fair question or even relevant, Mr Korn. The question is whether at the date of this email, that is on 8 May, 2007 who were the six people contemplated as being the persons who would be going to the meeting (not transcribable) email.

MR KORN: He's already told, Commissioner, he's already told me doesn't know.

10 THE COMMISSIONER: No, do you mind answering that question? Do you know?---I don't recall the specific names, but I do recall internally at Parkview we had discussions as to which construction personnel we would take with us.

Yes. And, and are you saying that people were identified in course of that discussion who eventually did not go?---Correct.

MR KORN: Can you give us any names of any such persons who had identified as being potentially going but who did not go?---Well potentially Gary Cory, our Head of Constructions, Vince Bristow, the Chief Estimator.

20 And apart from you just proffering that on the stop, let me put this to you, are you just making that up here and now?---No.

You're making it up deal with what is I suggest to you clearly a difficult proposition to deal with, that as of 8 May in that email you describe six of us being in attendance and in fact six of you went. That's what you're trying to do now isn't it? Deal with that unfortunate coincidence?---No.

30 The truth of the matter is Andrew Kelly was always going and to your knowledge. Correct?---No.

And as part of the Parkview team. Correct?---No.

You had met, I suggest Andrew Kelly in your office in March '07 hadn't you?---No.

40 And you had a, on that occasion Mr Charif Kazal was not present, but there was a subsequent occasion in late March where in fact the three of you were present in your office, you, Mr Kelly and Charif Kazal. What do you say to that?---No.

May I tender that email, Commissioner.

THE COMMISSIONER: The email of 8 May, 2007 from Mr David to Hazem Al Nowais is Exhibit 15.

#EXHIBIT 15 - EMAIL FROM MR DAVID TO HAZEM AL NOWAIS DATED 8 MAY 2007

MR KORN: Mr Clint Willoughby I think we've already established worked - did he actually work for Parkview in April 2007?

THE COMMISSIONER: Was he - do you mean was he employed or was he - did work as an independent contractor, we've had evidence about that.

MR KORN: Yes, I, that's, that's - - -

10

THE COMMISSIONER: So just identify precisely what you mean.

MR KORN: That's what I had in mind but I was looking past that. Mr Willoughby, what was his precise position with Parkview as or about 23 April, 2007?---I believe he was a director of Parkview Properties.

You in fact as a result - let me put this to you. I suggested to you a moment ago that in late March there was a meeting in your Parkview office and you had a Parkview office in late March 2007 didn't you?---We did.

20

I've suggested to you in late March 2007 you had a meeting at which yourself, Andrew Kelly and Charif Kazal attended, what do you say to that? ---I don't recall ever having a meeting with Andrew Kelly in my offices but I remember having a meeting with, with Charif Kazal and Karl Kazal in my office.

Are you saying no such meeting could ever have occurred which, which included Andrew Kelly in your office at the same time as Charif Kazal?---I don't recall - - -

30

THE COMMISSIONER: Before May, is that what you - - -

MR KORN: In late, in late March or in March - I'll do it again, it's clumsy, you're right, Commissioner. Are you saying that in the period March, particularly late March 2007, are you saying there could not ever have been a meeting in your Parkview office at which there was present at the same time yourself, Charif Kazal and Andrew Kelly?---I don't recall meeting Andrew Kelly before May of '07.

40

Are you saying that it simply could not have happened in the time span that I've put to you and in your office at Parkview, what do you say to that? It simply couldn't have happened?---I just don't recall it. No, I recall having a meeting specifically on Al Falah Community Project with Karl and Charif Kazal in March.

So it could have happened, is that, is that what you're conceding?---No.

No.

THE COMMISSIONER: Would you have recalled it had it happened?---I would have recalled it had it happened.

MR KORN: So effectively you're saying it didn't happen, is that what you're saying?---I think I've answered the question, Mr Korn.

10 Well, I'm going to take it that's what you're saying effectively, that it did not happen, not simply that you don't recall it, that it did not happen. Will I be correct in assuming that?---I think I've answered the question.

Well, I - - -

THE COMMISSIONER: I think you answer, I think the answer is yes.

MR KORN: Thank you, Commissioner.

20 Would you have a look at this email. One for you, Commissioner, and one for - would you take your time to just read that. Have you read that?---I've glanced at it.

Do you need more time?---Well, I think I can answer your question.

THE COMMISSIONER: It's not his letter, it's not his email.

MR KORN: I understand that. You think you can answer my question, what's the answer?---Well, I don't know what you're asking but I - - -

30 THE COMMISSIONER: What is the question?--- - - - looking at the email.

MR KORN: He just said he thinks he can answer my question so I assume he knew it, Commissioner?---Well, I, I've never seen it before.

THE COMMISSIONER: May we just proceed?

MR KORN: To the extent that Mr Willoughby is writing that document and refers to our team, was he referring as you understand it to Andrew Kelly as being part of our team?

40 THE COMMISSIONER: Well, I won't allow that. He can't answer that question, it's not his document.

MR KORN: You see, what I suggest to you - put the document to one side for a moment, Mr David, what I suggest to you is that in fact as a result of discussions you had had, particularly the discussion that I suggest to you was held in late March 2007 at a meeting at which you, Andrew Kelly and Charif Kazal were present, you in fact instructed Clint Willoughby

thereafter to go about the business of finding brands that could be take -
could take Parkview to the UAE, what do you say to that?---It's not true.

And indeed, just, just - - -

THE COMMISSIONER: Was this put to Mr Willoughby and Mr - - -

MR KORN: I believe it was, I believe it was.

10 THE COMMISSIONER: I don't think so but you may be right, I don't
recall it.

MR KORN: And indeed, just pause for a moment to see whether in fact the
Commission will permit this question.

THE COMMISSIONER: Yes, proceed, Mr Korn.

MR KORN: No, no, I'm actually saying because your Honour,
Commissioner, you may take a view.

20

Mr David, in fact this email is a - - -

THE COMMISSIONER: The one at 210?

MR KORN: At 210, is a result of what it was you had tasked Mr
Willoughby with doing, isn't it - and just pause for a moment?---No.

That might be returned. In the same vein, Mr David, I suggest to you that -
again, and I recognise your - are you saying you did not task Clint
30 Willoughby with the task of trying to find brands that could help Parkview
get into business in the UAE?---No, I asked - I introduced Clint and Charif
and they had numerous discussions. I don't know the detail.

THE COMMISSIONER: What was the purpose of the introduction?
---Charif Kazal wanted to know if I knew anyone who would be able to help
him with property and facilities management. I directed him to Clint.

What, so this - the whole trip to the UAE was in fact - can I put it as bluntly
as this really, just a venture that Charif was pursuing and it had really
40 nothing to do with you?---Certainly at the initial stages it was a venture that
Charif was pursuing, yes.

But it had nothing to do with you, even at the initial stages, is that what
you're trying to convey?---The facilities management, yes.

You see, I suggest that's again just a bald-faced lie. What do you say,
Mr David?---No.

You saw - Charif's only function as you saw it was to introduce you to the UAE in terms of opportunities, contacts, explain the culture, things of that nature, that's correct, isn't it?---No, that's not correct.

That's - in fact, that's all he ever was, wasn't it?---No, that's not correct.

Did he, did, was that any part of his function in relation to you and your venture to the UAE in or around about April, May, June, July of 2007?
---He represented the Al Falah Community Project to us in March '09.

10

THE COMMISSIONER: That's not the - not an answer to the question?
---Okay. Repeat the question then.

The question is, the question is concerns what as I understand it, what Mr Kazal's function was prior to and during the first visit to the UAE. What was his function?---Ah - - -

20

What was he doing there?---To answer that question I have to make it - Rabih Karam and Charif Kazal are very close friends and so we were there for, we were there in the UAE specifically initially to talk to Aldar on the Al Falah Community Project and we dovetailed the facilities management discussions with Seba with that.

And what was Charif Kazal doing there?---So he was there with me representing the Al Falah Community Project and I was there assisting him with the Seba project.

30

What was the Al Falah project?---That's the construction project for Aldar with the gentleman called Hazem Al Nowais that we discussed.

So at the stage you were going to on the first trip what was happened with Aldar - on the eve of your departure?---Hazem Al Nowais, the communications between myself and him, were specifically to have a meeting in the UAE to discuss Parkview tendering on the Al Falah Community Project.

Tendering what, to build it?---Yes. The introduction to Hazem Al Nowais came through the Kazal family.

40

THE COMMISSIONER: Yes, Mr Korn.

MR KORN: But the Al Falah project was the unimpressive one-hour meeting on the final day of your, of your attendance in, in the UAE wasn't it?---It ultimately was unimpressive, yeah.

Yeah. You were going to the UAE for whatever business ventures you could come by in relation to the spread of activities that Parkview might be

able to accommodate. What do you say to that?---I didn't hear the full question.

You were going to the UAE for whatever business opportunities you might come by that you thought Parkview could accommodate. What do you say to that?---I would say Parkview was there investigating opportunities, yes.

Yes. And Charif Kazal's function was to open the door by introducing you to contacts. Correct?---In part, yes.

10

And indeed that's specifically a function he played in respect of introducing you to Seba. Correct?---No, he introduced- - -

THE COMMISSIONER: Well, in part, was it in part one of his functions? ---Yes, it was in part.

MR KORN: So it's only a question of semantics how big a part, but nevertheless- - -

20

THE COMMISSIONER: No, it's not, because he might have been doing other things. That's not a matter of semantics.

MR KORN: And in part, if that was his function, Parkview, you on behalf of Parkview had it in mind that Parkview would embrace facilities management in any proposition that might arise between Parkview and Seba. Correct?---We determined that there, yes.

You knew that before you went, didn't you?---No.

30

That's why you wanted Mr Kelly along board, isn't it?---No, no.

That's why in fact you organised Mr Kelly to in fact attend, isn't it?---No.

All right. I want to move now to the topic of payment in respect of Mr Kelly, and to some extent that's going to intertwine with events concerning Charif Kazal's wife, Agnes, so I'll try and keep it as separate as I can and as, and as intelligible as I can, Mr David. The evidence that Agnes gave that you attended AWT premises and ultimately gave her an envelope and asked her to do what she said she did, that was correct, wasn't it?---No.

40

In fact you, you knew Agnes the day that you, that you, the day that she said you attended at the office and saw her sitting at the reception desk, didn't you?---No.

Your evidence last week was that you didn't in fact meet Agnes till when? ---I believe I met her in around September.

Were you ever in fact even aware that Agnes was the girlfriend/partner of, of Charif Kazal as early as May 2007?---I don't recall.

In fact Charif mentioned to you, spoke to you whilst you were both in Abu Dhabi, the UAE, about employment in Parkview for his partner, Agnes, didn't he?---I don't believe so, no.

10 You don't believe so. And I suggest that as a consequence of him asking you to do that, steps were put in place as early as June 2007 for Parkview to undertake the necessary arrangements to sponsor and ultimately employ Agnes. What do you say to that?---You would have to talk to Parkview human resources about the timing, I wouldn't have any recollection of that.

But Parkview human resources I suggest would have done what you directed them or asked them to do. Correct?---No, I would have asked them to do an interview.

20 Do you know anything about Parkview and in particular Wendy Williams having anything to do with communicating with Agnes in respect of a 457 sponsorship application as being a condition for employment by Agnes with Parkview?---No.

You know nothing about that?---No.

Absolutely you know nothing about it?---No.

Do you know what a 457 sponsorship application is or was at that time?
---I believe so, yes.

30 And was it a, was it as it were a step in the process of Parkview, if Parkview was to in fact make the 457 sponsorship application, a condition precedent to Parkview employing a person such as Agnes?---I'm not an expert at the process but I understand there is a process that goes along with employing people, yes.

Yes. For some reason on this occasion they've only, they've made one less copy than normal, Commissioner. Can I had you this copy first then ask that it be made available to Mr David?

40 THE COMMISSIONER: Yes.

MR KORN: We'll go to the Commissioner first.

THE COMMISSIONER: Sorry, can I, can I just see that.

MR BEECH-JONES: Someone can work off my spare, Commissioner?

THE COMMISSIONER: I beg your pardon?

MR BEECH-JONES: Someone can work off my spare if that's any assistance.

THE COMMISSIONER: Thank you. What do you want to do with this, Mr Korn?

MR KORN: I ultimately want to show it to Mr David and ask him was he aware of this.

10

THE COMMISSIONER: Well, I think you could do that now.

MR KORN: Mr Commissioner, can I ask, I'm sorry.

MR BEECH-JONES: Yeah, we'll see what we can do.

MR KORN: They've forgotten to give me any copies of that next document which is part of the process. Does that document in front of you now, Mr David, trigger any recollection that you have, that you now have in respect of a 457 sponsorship application in respect of Agnes as at June 2007?---No, it does not.

20

You see, I go back to this proposition. Does it now, do you know have a recollection that as part of the time that you were in the UAE that in fact Charif asked you about Parkview giving Agnes a job?---I don't recall when he asked but I remember we discussed it.

Was it in, was it in May of 2007 and was it in particular whilst you were over in the UAE?---I don't recall.

30

Was it as early as June 2007 that he spoke to you about Parkview employing Agnes?---I don't recall.

You see, what I - - -

THE COMMISSIONER: Excuse me, this is not in evidence that Chazal gave.

MR KORN: I'm sorry?

40

THE COMMISSIONER: It's not evidence that Chazal gave.

MR KORN: Charif Kazal, right.

THE COMMISSIONER: That Charif gave, yes.

MR KORN: I understand that this aspect suffers from that vice. This material wasn't available. I didn't find this material at the time.

THE COMMISSIONER: Well, why - - -

MR KORN: He is coming back, Commissioner.

MR NEWLINDS: As far as I'm concerned, it's ultimately a matter for you, Commissioner, he's not coming back so he can be led in the whole- - -

THE COMMISSIONER: No.

10

MR NEWLINDS: However, I suppose the ultimate question is if Mr Korn has some prospect of getting the witness to agree to one of these propositions, notwithstanding it wasn't led from his own client- - -

THE COMMISSIONER: Yes.

MR NEWLINDS: And I've seen the next document and that is a possibility, so may I suggest we just let it run for a little bit longer?

20

THE COMMISSIONER: Yes. Proceed, Mr Korn.

MR KORN: Thank you. Are we right, do we have copies of the next document? Two, one for, one for you, Commissioner and one for the witness. Do you see that's an email. At the top it reads from Rodric David then a date and then underneath it there's a separate email, Cameron Champion, Thursday 5 July, to, not CC, but to Rodric David, Emile Tabet and Tony Touma?---Yes.

Subject, 457 application?---Yes.

30

And do you see the first line says, "Guys, we're currently applying for a 457 application for Agnes as a human resource officer?"---Yes.

"Can you please confirm what have you agreed with Charif as far as a salary for Agnes?" Do you see that?---I do.

The very terms of that make it clear that the writer of that document seems to take the view that you in fact have had or there have at least been had discussions with Charif, not only obviously about a job but indeed details as to salary, doesn't it?

40

THE COMMISSIONER: For, for Agnes?

MR KORN: I'm sorry, for Agnes, yes. Didn't I say that? I'm sorry?
---It may have been a discussion he had with Emile or Tony, I don't recall.

What, you have no, even with the document in front of you, seeing that it's been sent to you, not just CC'd but sent to you, are you saying you still have absolutely no recollection- - -

THE COMMISSIONER: No, that's not what he said. He said- - -

MR KORN: Are you saying that- - -

10 THE COMMISSIONER: You asked him first about the discussion. He said he didn't recall a discussion, it may have been had with Emile Tabet or Tony Touma.

MR KORN: And I suppose I should properly ask, do you have any recollection that any such discussions, sorry, I withdraw. Are you saying that you have no recollection whatsoever that you were aware of any discussions about employing Agnes as at Thursday, 5 July, 2007? ---I don't recall.

20 Do you see paragraph 3?---I do.

That you all understand that Parkview may be subject to ongoing monitoring by the Department of Immigration?---Yes.

What do you understand, did you ever read this email?---I don't recall it, no.

30 Do you not read emails that are sent to you by your own staff?---I would glance at them. These are issues regarding Human Resources of which Emile Tabet was the man responsible for administration in Parkview, so I would have relied upon him and waited for the Board meetings to determine more detail of anything that was relevant for a Board.

But you see what I suggest to you is the background, is that the initiating process in respect of this whole, these emails, this whole prospect of Agnes being employed by Parkview all initiated from a conversation had directly between you and Charif didn't it?---No. It may have been with all of the Parkview Directors. I just don't recall. I've made that clear.

40 Is your answer no, no it was not initiated by a discussion between me and Charif. Is that what you're saying? Because you gave a compendious answer?---No, I don't recall. I don't recall.

Are you saying that you do not have any discussions with Charif at any stage in May or June of 2007 in which the topic of Parkview employing Agnes was brought up by Charif?---I don't recall.

THE COMMISSIONER: Does that mean that it may have happened but you don't recall it or does it mean that it didn't happen?---I remember

having discussions with Charif amongst others about Agnes, but I don't recall when that occurred.

MR KORN: It must have occurred before in fact she ultimately became employed wasn't it?---Presumably yes.

And she ultimately started with Parkview on 3 September, 2007 didn't she?
---I'm not aware.

10 THE COMMISSIONER: Did you have, you say you had discussions with Charif?---Yes.

Did you have discussions with Agnes?---No.

MR KORN: You, in fact let's deal with that point. I've been asking you so far about discussions which I suggested to you emanated at the time of the trip when you were, while you were commonly both there in May 2007?
---Yes.

20 I've been asking you about that so far haven't I?---Yes.

What I want to suggest to you is in fact pre-dating the first discussion that you ever had, and I'll put aside May 2007 for the money in terms of that question, but on occasions, being more than one, which pre-dated Charif ever having discussions with you about Parkview employing Agnes, you had in fact personally met Agnes in his company. That is correct isn't it?
---No, it is not.

30 You see when do you say that you ever first met her?---I don't recall when I first met her.

Did you meet her before she - - -

THE COMMISSIONER: Again, he hasn't finished.

MR KORN: Sorry?---I just don't recall when I first met her.

40 THE COMMISSIONER: All right?---I remember seeing her in the Parkview offices when she was an employee periodically, but that was it.

MR KORN: Did you meet her before or after she began her first day of employment a Parkview?---I don't recall.

And I'm suggesting to you see that the first day of her employment was 3 September, 2007 wasn't it?---I'm not aware of that detail.

Does that sound about right, the first week of September, 2007?---He employment file would be specific on that, I don't know.

Does that sound about right however?---I don't recall.

You don't recall. You have no idea, it's your position you have no idea whether in fact you'd ever met her putting aside what was the starting date as a fact, are you saying that you have no idea whatsoever whether you met Agnes before or after the date on which she first began employment at Parkview?---I don't recall when I first met Agnes when she became an employee at Parkview. I don't know the specific date of when she began.

10

THE COMMISSIONER: I, I understood your evidence to be that you didn't meet her until she became employed?---Yes.

MR KORN: Is that still the position?---Yes.

And is that the meeting where you say you saw her in a, what was the room you described a few moments ago, a, was it a common room or - - -?---I'm sorry.

20

You saw her, you said a few moments ago, about two minutes ago you said that you saw her on occasion in a room, and I didn't pick it up at Parkview? ---I don't believe that's what I said.

All right. Did you see did, did you see her at Parkview?---I recall seeing her in Parkview, yes.

Did you know who she was?---When she was an employee at Parkview, yes.

30

How did you know who she was?---Because by the time she was an employee at Parkview I knew she was Charif's girlfriend.

How?---Because Charif introduced her that way, I suppose.

When?---When she was an employee.

What Charif came to Parkview and introduced an employee of Parkview as being his girlfriend. Is that what you're saying?---No.

40

What are you saying?---I'm saying I would have been aware of her name from Charif. When I first met her was when she was an employee of Parkview.

But you said that you would have met her when Charif came and introduced her when she was at Parkview. Now I don't want to rush you but is that, is that your position?---Again, I've said it to you numerous times, I don't recall specifically meeting Agnes.

You said you met her because Charif would have introduced her or did introduce her after or when she was an employee at Parkview. Is that still your position?

THE COMMISSIONER: I think he said that, I think he may have Mr Korn, but it's becoming really confused now.

MR KORN: Only, I won't make a comment, Commissioner. The simple, truthful reality Mr David is you had met Agnes way before June 2007.
10 What do you say to that?---No, I did not.

You had met her before you went to the UAE for the first time in late May 2007. That's the fact isn't it?---No, it is not.

You're absolutely definite about that aren't you?---Yes.

When does your memory begin, begin to get hazy in terms of when it was that you definitely first met her? Starting from a proposition that you can be definite about late May, the trip to Dubai or to the UAE, when does your
20 memory start to get hazy after that? What month, what week?

MS HOGAN-DORAN: I object. This is not a fair question.

THE COMMISSIONER: No, that's too vague and too general, Mr Korn. He's, the witness has said that he remembers meeting her when she was employed at Parkview for the first time. That's his evidence. Now it may be true or it may be false, that's his evidence.

MR KORN: But he also added, and I don't argue, Commissioner, I accept,
30 but he also added he'd met her when in that context when Charif introduced her when she was - - -

THE COMMISSIONER: Well I don't (not transcribable) I'm not saying you're wrong I just don't recall - - -

MR KORN: Okay. I'll move on. I'll move on. Just a couple of matters, Mr David.

MR NEWLINDS: Are you going to tender that one, because that one's not
40 - - -

MR KORN: I'm sorry, is that not tendered?

THE COMMISSIONER: No.

MR KORN: It's not in the bundle. May I tender that.

THE COMMISSIONER: The email, that's the one of 6 July?

MR KORN: 5 July actually, it starts at the top at the 6th, but the actual one to Mr David is 5 July, Commissioner.

THE COMMISSIONER: Well the, the document containing an email from Rodric David to Charif Kazal of 6 July, 2007 is Exhibit 16.

10 **#EXHIBIT 16 - EMAIL FROM MR RODRIC DAVID TO CHARIF KAZAL DATED 6 JULY 2007**

MR KORN: You Honour, can I, can I, may I tender and in fact I do tender subject to your view, I tender the one of 22 June, that's an email document of 22 June at 12.24.

20 THE COMMISSIONER: Yes. The email, the email of 22 June, 2007 from Wendy Williams to two recipients including Ms Agnieszka Bocianowska is Exhibit, that's Exhibit 17 and that email is 22 June.

#EXHIBIT 17 - EMAIL FROM WENDI WILLIAMS DATED 22 JUNE 2007

THE COMMISSIONER: Who is Wendy Williams, Mr David?---She's the head of Human Resources for Parkview.

30 MR BEECH-JONES: Commissioner, can I have a copy of that (not transcribable)

THE COMMISSIONER: Yes, certainly. Perhaps - - -

MR KORN: Which one? Which one?

THE COMMISSIONER: If, Mr Korn, do you have, do you have a solicitor here? Can you please arrange for copies to be made that you tender.

40 MR KORN: Commissioner, if it's the last one Exhibit 17 I have a spare copy. Was it? I'm sorry, I can't do that. I've taken it.

MR BEECH-JONES: I'll get a copy.

THE COMMISSIONER: Mr Beech-Jones, one way or another we will get you a copy.

MR KORN: He's now got one.

THE COMMISSIONER: All right. Now, Mr Korn.

MR KORN: Thank you.

THE COMMISSIONER: Can we try and finish Mr David by lunch time.

MR KORN: Yes, we will, we will. I'm sorry.

THE COMMISSIONER: I won't.

10

MR KORN: I will.

Mr David, you in fact did give - - -

THE COMMISSIONER: That's quite all right Ms Hogan-Doran, take it. I'm sorry Mr Korn, Ms behind you, Ms Hogan-Doran was apologising for the fact we won't be finishing Mr David by lunch time at all.

MS HOGAN-DORAN: If it's any, I was mouthing sorry and I am - - -

20

THE COMMISSIONER: Yes, it seems to be a habit here. All meant was that Ms Hogan-Doran is not alone. Nor are you Mr Korn.

MS HOGAN-DORAN: I can assure you, your Honour that we do have multiple copies sufficient for everyone of all the documents that I propose to use. My instructing solicitor will confirm that.

MR KORN: May I continue?

30

MS HOGAN-DORAN: Thank you.

MR KORN: Mr David, in 2007 was Parkview interested in tendering for works in the Rocks in respect of properties for which SHFA had responsibility?

THE COMMISSIONER: I don't think that's part of the case of The Commission Mr Korn, I don't know why you are asking you the question, it hasn't been suggested.

40

MR KORN: Did you say that is nor or is part of the - - -

THE COMMISSIONER: It's not part of the case.

MR KORN: No, no, that's why, that's why I want to elicit an answer from the witness.

THE COMMISSIONER: Why? It's not being advanced by the Commission.

MR KORN: Because it goes to the question of why Mr, I want to put the proposition to Mr David that's the reason why in fact he disguised payments to Mr Kelly.

THE COMMISSIONER: What are you putting to him?

MR KORN: I'm asking whether in fact Parkview had an interest in tendering for work in respect of SHFA properties - - -

10

THE COMMISSIONER: All right. Proceed.

MR KORN: Put as bluntly as that. In particular - - -

THE COMMISSIONER: Did you have an interest in tendering for building projects in The Rocks in 2007?---I would assume Parkview would have an interest in tendering on any project it could tender on but the construction division was managed and handled by Tony Touma so I was never aware of the details of any jobs we were seeking to tender on.

20

MR KORN: You may not have been aware of the details but you would have been aware of the fact of the matter, the fact of the matter being that Parkview would be interested in tendering in such work in The Rocks for properties managed by SHFA?---(not transcribable)

THE COMMISSIONER: In construction?

MR KORN: Yes.

30 THE WITNESS: I'm sorry - - -

THE COMMISSIONER: Mr David has said yes.

MR KORN: All right. Thank you.

THE COMMISSIONER: In general terms.

MR KORN: You see, that's one of the reasons – that I suggest is a reason why in fact you wanted to disguise and don't want to be seen to be responsible for any part of any payment of expenses for that May trip for Mr Kelly, isn't it?---No.

40

Do you deny that?---Yes.

Well, I'm suggesting that in fact is a reason why in fact you wanted to be, that gave you a motive for wanting to be not be associated with any part of any such payments, that is the fact isn't it?---I disagree.

And indeed in the same vein - - -

THE COMMISSIONER: I'm not sure what Mr Kelly has to do with this at all?

MR KORN: The question of who paid - - -

THE COMMISSIONER: What's Mr Kelly got to do with construction work in The Rocks?

10

MR KORN: The question of who paid Mr Kelly's expenses is a matter before The Commission.

THE COMMISSIONER: Mr Korn, there is no evidence at the moment that Mr Kelly had anything to do with construction work in The Rocks.

MR KORN: Absolutely, but it is all part of SHFA and it may not have been his direct bailiwick.

20 THE COMMISSIONER: This is a very long bow Mr Korn.

MR KORN: If your Honour, please. All right. Let's get to a different matter. You in fact did o about the task – did you not – of deliberately trying to distance yourself in terms of any objectively, objective connection with paying Andrew Kelly's expenses for the May 2007 trip. Correct?
---No.

30 In fact, to put it bluntly, you used means that were capable of disguising the fact that you were in fact were responsible for paying the expenses for his trip. What do you say to that?---No.

And indeed in that regard I'm going to put to you Mr Kelly, that the concept of disguising how monies are paid is something with which you have some fair degree of knowledge as a concept. What do you say to that?---I would say I'm not Mr Kelly.

40 Again, Mr Commissioner, two copies. I will be asking subject to you allowing it Mr Commissioner questions about two paragraphs on page 1, the third paragraph which commences with the words December 2007 and the fifth paragraph which commences with the word Braedon.

THE COMMISSIONER: What has this go to do with it?

MS HOGAN-DORN: I object to this I haven't seen this document before, I haven't had an opportunity to take any instructions on this issue, it's not an issue that's been opened by Counsel Assisting.

THE COMMISSIONER: What's the relevance of this Mr Korn?

MR KORN: The relevance your Honour, Commissioner is that we say that when you look at this document in fact it shows that Mr David is well versed in the art of concealing payments, albeit on a different topic but he's well versed in it and I say it as blandly as that without saying anything further particularly the paragraph which begins with the word Braedon.

10 THE COMMISSIONER: The paragraph. I'm not going to allow this Mr Korn. I do not regard this the rake that can be attributed to this even if your submissions are right as being worthwhile expanding the width of the inquiry to the extent that an investigation into these matters will require.

MR KORN: Without any way cavilling with you Commissioner, can I just say this. I did not intend to make any inflammatory remarks about what it might, what those two paragraphs might amount to I was simply going to put it on the basis of being a disguise without going further as to whether in fact that's capable of being criminal conduct.

20 THE COMMISSIONER: I don't know whether it's a disguise or not because one can't tell from reading this letter, this might be all part of a legitimate way of organising one's affairs and quite lawfully in order to for example minimise taxation. Whether it's illegal or not is an issue I'm certain not going to investigate in this inquiry.

MR KORN: What I'd ask you to do again, Commissioner, not in any way seeking to cavil if you go to page 2.

THE COMMISSIONER: Yes.

30 MR KORN: With the fourth last paragraph which commences with these words, I challenge these numbers, and in particular in the second line the word in ".." there.

40 MR NEWLINDS: My submission is this Mr Commissioner, if we were in a court and this was being propounded on credit then my learned friend would almost certainly wouldn't be allowed to show the document to this witness other than getting him to agree with the proposition and being stuck in the answer. And in my submission it's so far removed just in temporal terms from the events that we're concerned that is it's August 2009 it really wouldn't have much impact on his credit, 2009 I think it is.

THE COMMISSIONER: August 2009.

MR NEWLINDS: And the second submission is if our learned friend wants to put it in as some (not transcribable) in a court to put it forward as some sort of similar fact evidence it's just not, it doesn't come close to the mark. Now I know those rules don't apply but they are a good guide in my respectful submission we really aren't going to be assisted by whatever

outcome of this mini-inquiry might bring in terms of credit or facts and issues.

THE COMMISSIONER: Mr Korn, if wish to put the letter to Mr David and then put a question to him not relating to the letter you can do that but I'm not going to receive the letter.

10 MR KORN: I can put a question, sorry, I can put the document to him but then ask a question that does not relate to the substance of any paragraph in the letter.

THE COMMISSIONER: Yes. Do you understand what I mean?

MR KORN: No.

THE COMMISSIONER: Well, there is, there is a well-known technique of confronting a witness with a document - - -

20 MR KORN: Yes, I understand.

THE COMMISSIONER: - - - which you put to the - - -

MR KORN: Yes, I understand, the old-fashioned way.

THE COMMISSIONER: Yes.

MR KORN: Yeah, that's right.

30 THE COMMISSIONER: I thought it was still the law.

MR KORN: Do you still maintain - - -

THE COMMISSIONER: All right.

MR NEWLINDS: It's Queen's case.

MR KORN: Yeah, it's Queen's case.

40 THE COMMISSIONER: Yes. I can't swap a jurisdiction for (not transcribable)

MR KORN: We had a lovely lecture on it last year at the Bar Association downstairs, Mr - - -

THE COMMISSIONER: Yes, it's the Queen's case.

MR KORN: Have you read that - have you read that document, the two pages of it?---Not in detail, no.

Have you read the two paragraphs on page 1 that I've sought to alert his Honour to, the paragraph which begins, the third paragraph down which begins with the words "December 2007" and a paragraph, the third from the bottom which begins with "Braedon was", have you seen, have you read those two paragraphs?---Mr Commissioner, these issues involving my family - - -

10 THE COMMISSIONER: Just answer the question, Mr David.

THE WITNESS: - - - so I haven't read those paragraphs, no.

MR KORN: Would you do so?

THE COMMISSIONER: Do you mind just reading the - what paragraphs do you want Mr David to read?

20 MR KORN: The first two sentences of the paragraph which begins "December 2007."

THE COMMISSIONER: Sorry, the first two sentences?

MR KORN: The first two sentences.

THE COMMISSIONER: Yes. So just read it to yourself, Mr David and tell me when you're finished?---Ah hmm.

And then?

30 MR KORN: The paragraph which begins with, with the word "Braedon," the entirety of those four lines?---Ah hmm.

Have you read those, that material?---I have.

Insofar as you've given evidence that you did not make the payments to Andrew Kelly to reimburse him for his trip to the UAE, do you maintain that evidence?---I did not pay Andrew Kelly for his trip to the UAE.

40 Is it appropriate, just so it records itself on the transcript to simply mark this for identification, Commissioner?

THE COMMISSIONER: No, I won't mark it for identification. It's not a document that forms part of the transcript.

MR KORN: I understand that, I understand that but simply for - - -

THE COMMISSIONER: For that reason - there's no point in marking it for identification.

MR KORN: All right. Thank you.

THE COMMISSIONER: It's not part of the information that the Commission will consider.

MR KORN: All right.

10 The last part I want to take you to, Mr David, is this: you in fact do have a motive, do you not, for seeking to damage both - the credibility of both - - -

THE COMMISSIONER: That is a matter for argument, Mr Korn. It is so, I mean, the facts relating to this are so obvious. I mean, no - the Kazals and Mr David have got - each have motives to damage each other, we all know that.

MR KORN: All right. It was a prelude to the question so I'll do it in this way, Mr David, last week you in fact tried to give the impression that in respect of the Cayman Islands proceedings those proceedings - the Andrew
20 Kelly affidavit had been withdrawn and thereby you sought to give the impression that those proceedings were no longer on foot, did you not?

THE COMMISSIONER: Well, I won't allow it.

MS HOGAN-DORAN: I object.

THE COMMISSIONER: If you were - put to Mr David what he said, Mr Korn.

30 MR KORN: Well, I'll do it this way. In respect of the Cayman Islands - - -

THE COMMISSIONER: You don't have to put exactly what he said but put more of the words that he more or less used.

MR KORN: In fact, more or less what you said last week, you said that Andrew Kelly in respect of proceedings in the Cayman Islands, that his affidavit had been withdrawn, did you not?---The petition of which the affidavit was a part of have been withdrawn.

40 And did you seek, were you intending to try and convey - when you said that in those words were you intending to try and convey that those proceedings - the substance of those proceedings was in effect at an end? ---They are.

Sir, may I respectfully invite this correction, on 12 January, 2011 - I'm sorry, I withdraw that. A petition to wind up ECL was filed in May 2010, wasn't it?---There were two petitions filed in May of '10.

That's right. On 12 January, 2011 the parties agreed that in fact ECL should be wound up, that's a fact, isn't it?---That's correct.

And it was thereafter recommended by his Honour the presiding judge, Mr Justice Jones, that the best way forward would be to start the liquidation and move any argument which had arisen in respect of and as a consequence of the winding up, to move that argument about shareholders' loans and dilution of shares into a new proceeding, correct?---That is incorrect.

10 And that as a result of his Honour indicating that, that therefore the petition was withdrawn by consent, wasn't it?

MR NEWLINDS: Are you sure it was wound up?

MR KORN: No, the petition was withdrawn by consent on the basis that it was no longer necessary, that's correct, isn't it?---No, you're, you're actually incorrect.

20 THE COMMISSIONER: Mr Korn, I don't care what happened in the Cayman Islands quite frankly.

MR KORN: And that you - put, put it this way - - -

THE COMMISSIONER: Why is that relevant?

MR KORN: The proceedings, the proceedings in the Cayman Islands in which Andrew Kelly is a witness is still on foot in effect, isn't it?---No, they are not.

30 The proceedings in UAE involving fraud allegations against yourself in which Andrew Kelly is a witness are still on foot, aren't they?---The proceedings in the UAE have been preliminarily determined by a court appointed expert.

Are they still on foot?---The (not transcribable) is on foot - - -

Yeah?--- - - - as they continue the investigation.

40 And, Mr Kelly, you in fact have been - I'm sorry, I withdraw that?---I'm not Mr Kelly.

Mr David, you fact have already acknowledged, have you not, that indeed you have been a supplier of information to the Sydney Morning Herald in terms of the articles published about the Kazal family, is that correct?---I have provided them with some detail.

You have been Mr Besser's principal source of information in terms of what he - - -

MS HOGAN-DORAN: Objection, he can't answer that.

THE COMMISSIONER: He can't, don't answer that.

MR KORN: Thank you, Mr Commissioner.

THE COMMISSIONER: Ms Hogan-Doran?

10 MS HOGAN-DORAN: You were asked some questions this morning, Mr David, and on previous occasions in which it's put to you that you didn't leave the UAE until 1 June. Can I show you a document, and I provide copies to my friends, this is an extract from your passport. Do you, do you identify that as a photocopy of an extract from your passport?---I do.

And you identify that as having an arrival stamp of 27 May, 2007?---Yes.

And a departure stamp of 31 May, 2007 from the UAE?---Yes.

20 And do you also identify a Chinese visa?---Yes.

Identifying an issue date of 1 June - I'll ignore, I'll withdraw that. I tender that document.

THE COMMISSIONER: Yes. The extract from Mr David's passport is Exhibit 18.

30 **#EXHIBIT 18 - COPY OF PASSPORT PAGES FROM MR DAVID'S PASSPORT**

MS HOGAN-DORAN: When you went to the UAE in May 2007 do you recall being provided with a number of Australian World Trading business cards?---Yes.

And do you recall being provided with copies of - provided with a card from Charif Kazal?---Yes.

40 And from John Yudal?---Not at that time. I did receive a card from John Yudal at an alternate time.

MR NEWLINDS: Well, can I - ultimately this is a matter for you, Commissioner, but may I just say for my learned friend's edification, as far as my submissions are concerned, she could do herself and her client a lot of favours if you didn't lead so much. The weight that one can give this sort of evidence very much depends on how it emerges.

THE COMMISSIONER: I have those sentiments. I mean, I won't stop you from leading but the weight is affected by the manner in which the questions are asked.

MS HOGAN-DORAN: I accept that. When you were in the UAE in May 2007 were you provided or were you at a meeting at which Mr Kelly handed out any business cards?---Yes.

And what business card was that?---AWT.

10

Have you made, did you keep that card?---No, I did not.

Have you made searches for that card?---I have indeed.

Has your, have you given instructions to your instructing solicitor, to my instructing solicitor to communicate the, to the Commission the outcomes of those failed searches?---Yes.

20

I'll show you, I'll show you a copy of a letter dated 18 January, 2011.
---Yes.

Is that a letter that you instructed your solicitor to provide to the Commission?---It is.

I tender that document.

THE COMMISSIONER: Yes.

30

MR NEWLINDS: My suggestion would be that if this is being tendered to rebut the recent invention allegation, perhaps it's one step in a long road, but it doesn't really get us back very close to the relevant time.

MS HOGAN-DORAN: I'm going there.

MR BEECH-JONES: May I have a copy of the document that's being tendered?

MR NEWLINDS: I don't object to it, I just make that point.

40

MR BEECH-JONES: Can I have a copy of the document that's being tendered?

THE COMMISSIONER: (not transcribable) the, the letter. Exhibit 19 is the letter from Atkin Lawyers to this Commission of 18 January, 2011.

**#EXHIBIT 19 - LETTER FROM ATIKEN LAWYERS TO ICAC
DATED 18 JANUARY 2011**

THE COMMISSIONER: Yes?

MS HOGAN-DORAN: I show Mr David a further document. It's an email from James Frawley dated 21 December, 2007, to Mr David, copy to Mr Charif Kazal and Braedon David. Commissioner, if you would ignore the forwarding email at the top which is that of my instructing solicitor. I don't propose to tender that.

10

THE COMMISSIONER: Sorry?

MS HOGAN-DORAN: I don't propose to tender or rely upon the top portion of that document.

THE COMMISSIONER: Well, how do we, how do you avoid putting it in?

MS HOGAN-DORAN: I'll identify there's an email from Walter MacCallum dated 1 August, 2011, forwarding UAE- - -

20

THE COMMISSIONER: Ms Hogan-Doran, I don't actually understand this document. You'd better explain it to me.

MS HOGAN-DORAN: Yes. I apologise, Commissioner. It is, the only portion I, I want to reply upon the document as from when it begins, "From James Frawley."

THE COMMISSIONER: "From James Frawley."

30 MS HOGAN-DORAN: Yes.

THE COMMISSIONER: So you, all right. Well- - -

MS HOGAN-DORAN: Could I have leave, I will be tendering this document, if I could have leave to, if this is easier for you, easier for the Commission's assistance to have (not transcribable) substitute the same document without the forwarding from my instructing solicitor to his secretary?

40 MR NEWLINDS: And can you just tell me the relevance?

THE COMMISSIONER: Well, I don't, at the moment that doesn't seem to me to be the biggest problem, it's just that I don't understand the purpose of the document or its relevance. I- - -

MS HOGAN-DORAN: Perhaps I could address some questions to Mr David and make that good. Mr David, you identify the email, receiving, identify the email from Mr Frawley to yourself?---I do.

And would you see, look down that there are a number of earlier emails within that email?---Correct.

And looking at the email from Mr Frawley to you of 19 December, 2007 - - -?---Yes

- - -as you go over the page you will see there are a number of coloured portions of that email?---Yes.

10

Yes. And I ask you to go down to the bottom part, the last paragraph of the second page?---Yes.

Are you able to identify who, whose communication is the portion in the colour green?---The green writing is mine.

20

And those words are, “I was thinking maybe going with separate IPS business card noting IPS as a division of Davids Group. What do you think? Braedon will get these processed for you and Ash. Maybe Andrew Kelly we’ll leave as AWT, Charif’s company, as he’s already used this and we refer to Andrew as the UAE CEO designate or we could make him IPS as well. Any views?”---Yes.

When you were referring, when you were making the statement, “Maybe Andrew Kelly we’ll leave as AWT, Charif’s company, as he had already used this”, to what were you intending to refer?---The meeting in May ’07.

30

And when you used the word, “Used”, what did you mean by that?---He handed it out at that meeting.

THE COMMISSIONER: I think you’d better just clear up the author of the different colours.

MS HOGAN-DORAN: Yes. Just looking back to the top of that page- - -? ---Well, I can do that for you if it will make it easier.

40

Yes, please?---Certainly the black is James Frawley, the red is myself, the blue is James Frawley and the green is myself. And then there’s another blue which would be James Frawley.

THE COMMISSIONER: Which is the other blue?---It’s at the very end of the document, Your Honour.

The last page?---Yes.

All right.

MS HOGAN-DORAN: I tender that.

THE COMMISSIONER: I beg your pardon?

MS HOGAN-DORAN: I tender that.

THE COMMISSIONER: All right. The email from James Frawley to Mr David of 21 December, 2007, with the print in different colours is Exhibit 20.

10

#EXHIBIT 20 - EMAIL STREAM COMMENCING WITH EMAIL FROM MR MACCALLUM TO MR BORELLO DATED 1 AUGUST 2011

MS HOGAN-DORAN: Mr David, following the, do you recall the email from Mr Frawley to yourself of 21 December, 2007 at 12.07?---Yes.

20 And you see that that is copied to Mr Kazal, Mr Charif Kazal and your brother, Braedon?---Yes.

After receiving that email did you ever have any conversation or receive any communication from Mr Charif Kazal to the effect that, concerning, concerning the use of an AWT business card by Mr Kelly?---No.

When you went on the first trip to the UAE or prior to going to the first trip on the UAE, were you yourself issued with any business cards?---I was.

30 Are those cards present here today?---Yes, they are.

Who did you provide them to?---Walter has them I think.

Right. May I have these provided to the witness, please.

THE COMMISSIONER: Well, we don't need all of them. Can we take one?

MS HOGAN-DORAN: Everyone can have one.

40 THE COMMISSIONER: Can I have one? Thanks.

MS HOGAN-DORAN: Here's one. Did you or did Parkview arrange for these to be, these business cards to be produced?---No, they were given to me by Charif.

Do you have a recollection as to when they were given to you?---In the UAE or May of '07.

Right. And do you know who or what organisation paid for the, the preparation and printing of these business cards?---I'm assuming AWT.

THE COMMISSIONER: Or did Parkview?---No.

And did you?---No.

So you're tendering the business card?

10 MS HOGAN-DORAN: Yes.

THE COMMISSIONER: Yes, the business card of Rodric David showing AWT as Exhibit 21.

#EXHIBIT 21 - AWT BUSINESS CARD CONTAINING MR DAVID'S NAME

20 MS HOGAN-DORAN: Mr David do you have a recollection of having used this business card?---No.

At any time?---No.

Looking at the card, there's no office identified under it?---Correct.

Did you give any instruction for any, for the content of this card?---No, I did not.

30 Did you anticipate receiving this card?---No, I did not.

Doing the best you can does the, what is your recollection of the card that you say Mr Kelly provided in the UAE, was it similar or different to this? ---It was the same card with, with his name on it.

40 You were asked some questions earlier about the Aldar meetings, sorry, I'll withdraw that. Mr Korn this morning was asking you some questions concerning the events of during the trip in May 2007, in respect of the, sorry, I've (not transcribable) my notes. In respect of the trip in May 2007 you were asked on Friday some questions by Mr Beech-Jones concerning your distribution of a clipped photograph of the helicopter ride?---I recall the questions.

And d you recall that, and in respect of the photograph have you provided or did you provide any other photographs to the Sydney Morning Herald?---I certainly provided them with the full photograph.

And when did you provide that?---To the best of my recollection in August.

And did you provide, who, to whom did you provide that?---I believe it was the lawyer representing Fairfax.

During the meeting with, I've lost the document - - -

MR KORN: Could we get a date, what year, August of what year?

MS HOGAN-DORAN: What year Mr David?---2010.

10

You've given evidence that you first met with Charif Kazal and Karl Kazal in March 2007?---Yes.

I'll show you a document. I'm providing everybody a copy. Can you identify to the Commissioner what that document is?---It's a fax to Karl Kazal from the Embassy of the United Arab Emirates in Singapore dated 19 March, 2007 attaching the project brief of the Al Falah community project.

20

And would you identify within the document the description of what you understood to be the nature and scope of the project?---It's a project for housing for UAE nationals of 5,000 housing units, plus associated infrastructure.

It describes five interconnected villages, you see that on the second page? ---Yes.

Is that of the scale that Parkview Constructions had previously participated, a construction development of that size?---Not at that, not at that time, no.

30

THE COMMISSIONER: What was it too small, too big?---Too big. But it was a staged development. You can see they've got I believe it's five or it may be seven stages to it.

MS HOGAN-DORAN: Were you aware of the Al Falah community project prior to March 2007?---No, I was not.

And was this the first introduction to this project?---Yes, yes.

40

To your recollection were there any other documents that you were provided?---Not at the time, no.

And which of Karl or Charif provided these to you?---They both came to my office and presented it to me.

I tender that document.

THE COMMISSIONER: When did they give it to you, when was it given to you, Mr David?---I would, to the best of my recollection 23 March, to the best of my recollection, may be a day earlier, I can't recall.

MS HOGAN-DORAN: Can I ask you to look at page - - -

THE COMMISSIONER: Just a moment, please. The, the facsimile of 19 March, 2007 from a Mr Karl Rama to Karl Kazal is Exhibit 22.

10

#EXHIBIT 22 - FACSIMILE FROM MR ASIM MIRZA ALRAHMAH TO MR KARL GAZEL DATED 9 MARCH 2007

THE COMMISSIONER: Yes, Ms Hogan-Doran.

MS HOGAN-DORAN: Commissioner, I was going to ask a few more questions in respect of this document. Mr Beech-Jones says he has matters he wanted to raise, he's just asked me then for 1 o'clock.

20

THE COMMISSIONER: Yes, yes Mr Beech-Jones.

MR BEECH-JONES: Just a short housekeeping matter, Commissioner, because I won't, Mr Andronos will be here tomorrow, so I should probably raise it now, just on the timetable for submissions, does the standard directions, which I think as Mr Newlinds, 14 days and then interested parties 14 days to respond, my only request is that following that second date there be a further seven days in which interested parties could respond to, as it were a crossfire, that emerges from other submissions, I can reasonably anticipate that Ms Hogan-Doran and I submissions may have some degree of conflict amongst them.

30

THE COMMISSIONER: Yes.

MR BEECH-JONES: So that's, that's the only point if that could be allowed in the timetable.

MR KORN: So long as I'm not caught in the crossfire.

40

MR BEECH-JONES: Mr Newlinds will be (not transcribable) in the crossfire. (not transcribable)

THE COMMISSIONER: Yes, there will be a further seven days to reply to new material.

MR BEECH-JONES: Thank you, Commissioner. That's it. That's the only matter.

THE COMMISSIONER: Yes, the Commission will adjourn until 2.00pm.

LUNCHEON ADJOURNMENT

[12.59pm]